

**AGENDA MEMO**

**CITY COUNCIL MEETING OF: DECEMBER 2, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: SUP-36111 - APPLICANT/OWNER: CAROLINE'S COURT, LLC**

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**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to conditions.

**Planning and Development**

1. Conformance to the conditions for Rezoning (Z-0076-98).
2. Approval of and conformance to the Conditions of Approval for Variance (VAR-36338) and Site Development Plan Review (SDR-36112) shall be required, if approved.
3. This approval shall be void two years from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Special Use Permit for a proposed 2,155 square-foot Restaurant with Drive-Through at the northwest corner of El Capitan Way and Durango Drive, located within the Town Center area. The proposed restaurant is part of a larger shopping center site on the same lot. A similar use has already been approved on an adjacent pad site within the shopping center. Staff recommends denial of this request, as it cannot be conducted in a manner that is harmonious and compatible with nearby residential development. If denied, a Restaurant with Drive Through use proposed on Pad 'G' as shown on the site plan cannot be permitted, and the approved retail use for this site will remain.

**Issues:**

- A related Variance (VAR-36338) to allow no loading spaces on the proposed Restaurant with Drive Through site where one is required and a Site Development Plan Review (SDR-36112) for the restaurant and other changes to the originally approved site plan accompany this request.
- The use as proposed will require a Review of Condition of the previous Site Development Plan Review (SDR-20496) to allow the restaurant to remain open 24 hours a day, seven days a week.
- The specific site where this use would be located was originally approved for retail uses; the proposed Special Use Permit is in addition to one that was approved for a separate pad site in 2007.
- The building where the use is to be conducted is located approximately 58 feet from residential properties to the north and is buffered from residential uses by a multi-use transportation trail.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc. and Property Sales</i></b>	
05/12/64	The Board of City Commissioners approved an Annexation (A-0003-64) of approximately 5,000 acres generally located north of Lone Mountain Road and west of Decatur Boulevard.
12/07/98	The City Council approved a request for a Rezoning (Z-0076-98) to T-C (Town Center) on 1,468 acres located within the Northwest General Plan Amendment to the City of Las Vegas General Plan, including the subject site. The Planning Commission and staff recommended approval.
04/26/07	The Planning Commission accepted the applicant's request to withdraw without prejudice a request for a Special Use Permit (SUP-20500) for a Restaurant with Drive-Through use on the subject site. Staff had recommended approval.

07/11/07	The City Council approved a request for Special Use Permits for Building and Landscape Material/Lumber Yard (SUP-20497), Outdoor Storage, Accessory (SUP-20498), and Restaurant with Drive-Through (SUP-20499) on the subject site. The Planning Commission and staff recommended approval.
07/11/07	The City Council approved a request for a Site Development Plan Review (SDR-20496) for a proposed 269,860 square foot commercial center and waivers of the Town Center Development Standards for landscape buffer requirements and fast food restaurant uses on the subject site. The Planning Commission and staff recommended approval.
11/30/07	Planning and Development Department staff approved a Minor Site Development Plan Review of the overall shopping center site for reduction of floor area of the Fast Food 'A' building from 2,650 square feet to 2,407 square feet.
07/22/08	Code Enforcement responded to a complaint regarding graffiti on the subject site. Code Enforcement resolved the case 07/25/08.
07/31/08	Planning and Development Department staff approved a Minor Site Development Plan Review of the overall shopping center site for revisions in the elevations for the Major 'A' building and Buildings A through G. There were no major changes in height or materials.
09/17/08	The City Council approved a request for a Major Modification (MOD-28538) of the Town Center Land Use Plan to amend the land use designation from SC-TC (Service Commercial - Town Center) to GC-TC (General Commercial - Town Center) on 7.97 acres at the southwest corner of Durango Drive and Farm Road. The Planning Commission recommended approval; staff recommended denial.
04/23/09	The Planning Commission approved a Waiver (WVR-33758) of the Town Center Development Standards to allow no amenity zone along Durango Drive where a 2.5-foot amenity zone was required. Staff recommended denial.
06/19/09	A Final Map (FMP-27577) for a one-lot commercial subdivision (Caroline's Court) was recorded.
06/25/09	The Planning Commission approved a request for a Master Sign Plan (MSP-34174) for a proposed commercial development on the subject site, with waivers of the Town Center Sign Standards to allow 2,609 square feet of freestanding signage where 1,506 square feet is allowed, a 100-foot pylon sign where 24 feet is allowed, three monument signs along the El Capitan Way street frontage where two are allowed, and to allow wall signs to face an existing residential development that is located outside of the city limits of the Centennial Hills Town Center where such is not permitted. Staff recommended denial.

07/15/09	The City Council approved Extensions of Time for previously approved requests for Special Use Permits for Building and Landscape Material/Lumber Yard (EOT-34757), Outdoor Storage, Accessory (EOT-34759), and Restaurant with Drive-Through (EOT-34761) uses on the subject site. The approvals will expire 07/11/10 unless another Extension of Time is approved by the City Council. Staff recommended approval.
07/15/09	The City Council approved an Extension of Time (EOT-34762) for a previously approved request for a Site Development Plan Review (SDR-20496) for a proposed 296,860 square foot commercial center and waivers of the Town Center Development Standards for landscape buffer requirements on the subject site. Staff recommended approval.
09/10/09	Code Enforcement responded to a complaint (#81718) regarding construction noise on the site beginning at 4:30 a.m. and parking lot lighting potentially shining into residences. Code Enforcement resolved the case on 10/01/09
09/21/09	Planning and Development Department staff approved a Minor Site Development Plan Review on the overall shopping center site for reduction in overall floor area from 269,734 square feet to 269,212 square feet and to revise the landscape plan to incorporate a drainage channel.
10/07/09	Planning and Development Department staff approved a Minor Site Development Plan Review on the overall shopping center site for reduction in overall floor area from 269,212 square feet to 264,189 square feet and to remove the drainage channel along the east perimeter of the site.
11/05/09	The Planning Commission recommended approval of companion item VAR-36338 and denial of SDR-36112 concurrently with this application.  The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #40/ss).
12/02/09	The City Council will hear a related request (ROC-36456) to review Condition Number 21 of a Site Development Plan Review (SDR-20496) to amend restrictions on hours of operation on the site.
<b><i>Related Building Permits/Business Licenses</i></b>	
12/27/07	An application for a building permit (B-COMM-26225) for a certificate of occupancy for a retail building at 7751 North El Capitan Way was submitted. The permit has not yet been issued.
04/25/08	An application for a building permit (B-COMM-27890) for a certificate of occupancy for a restaurant at 7741 North El Capitan Way was submitted. The permit has not yet been issued.
09/16/08	A building permit (B-COMM-25179) was issued for the overall shopping center site buildings and clock tower at 7737 North El Capitan Way. A final inspection has not been completed.
10/02/08	Civil improvement Mylar plans (L-CIVIL-28917) were approved for Fast Food 'A' pad at 7737 North El Capitan Way.

10/23/08	Building permits (B-SHL-100093, 100094, 100096, 100097, 100098, 100100, 100103 and 100104) were issued for shells of Buildings A, B, C, D, E, F, G, and Major 'A' at 7703 North El Capitan Way. No final inspections have been completed to date.
10/23/08	A building permit (B-COMM-100105) was issued for a 39-foot tall clock tower at 7741 North El Capitan Way. A final inspection has not been completed.
10/23/08	A building permit (B-GRAD-124282) was issued for grading of the overall shopping center site at 7741 North El Capitan Way. A final inspection has not been completed.
09/18/09	A Wall/Fence permit (#147013) was issued for perimeter and retaining walls at 7741 North El Capitan Way. A final inspection has not been completed.
<b><i>Pre-Application Meeting</i></b>	
09/01/09	The applicant was advised that in addition to the Special Use Permit, a Site Development Plan Review would also be required, as the use on the approved pad site would be changing. The applicant requested that revised plans for the development's clock tower be added to the site review submittal.
<b><i>Neighborhood Meeting</i></b>	
10/06/09	A neighborhood meeting for this item and the accompanying Site Development Plan Review was held at the Centennial Hills Community Center located at 6601 N Buffalo Drive, 6:00 p.m. Six members of the public, two members representing the applicant, one City Council staff member and one member of Planning & Development staff attended. No concerns were raised at the meeting.
<b><i>Field Check</i></b>	
10/01/09	The site is undeveloped with no structures. However, grading of the site is underway. The trail path along the north property line has been constructed.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	25.03

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Undeveloped	SC-TC (Service Commercial – Town Center)	T-C (Town Center)
North	Single Family, Detached	ML (Medium-Low Density Residential)	R-CL (Single Family Compact-Lot)
South	Undeveloped	SC-TC (Service Commercial – Town Center)	T-C (Town Center)

East	General Retail	SC-TC (Service Commercial – Town Center)	T-C (Town Center)
	Undeveloped	GC-TC (General Commercial – Town Center)	T-C (Town Center)
West	ROW (U.S. 95)	ROW (Right-of-Way)	ROW (Right-of-Way)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>			
T-C Town Center District			N
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>			
T-C Town Center District			N
<b>Trails</b>	X		Y
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

## DEVELOPMENT STANDARDS

*Pursuant to Title 19.10, the following parking standards apply:*

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required		Provided		Compliance	
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center	264,189 SF	1 space /250 SF GFA	1036	21	1099	28	Y
TOTAL			1057		1127		Y
Loading Spaces	264,189 SF	3 spaces for first 50,000 SF, then one add'l space per 100,000 SF GFA over 50,000	6 spaces		7 spaces		Y

## ANALYSIS

The definition of a Restaurant with Drive Through use, according to Title 19.20, is an “establishment providing for the preparation and retail sale of food and beverages, including cafes, coffee shops, sandwich shops, ice cream parlors, fast-food take out (i.e., pizza) and similar uses, with the added provision of one or more drive-through lanes for ordering and dispensing food and beverages to patrons remaining in their vehicles.” This use is allowed in the subject SC-TC (Service Commercial – Town Center) land use district with approval of a Special Use Permit. Per the Town Center Development Standards, requests for a Restaurant with Drive Through use in Town Center are reviewed and conditioned on a case-by-case basis.

The proposed use is to be located within a building on Pad ‘G’ as shown on the site plan that was originally approved for retail uses. The pad site is located in the northeast corner of the 25-acre site. The building is decreasing in size from 3,200 square feet to 2,155 square feet through the related Site Development Plan Review (SDR-36112) request. The building is oriented toward the interior of the site, while the drive through lane wraps around the south and east sides of the building away from residential properties situated to the north of the overall site.

As discussed in the accompanying Site Development Plan Review, the site as designed cannot accommodate a required loading space and may have potential circulation difficulties during peak business hours. A Variance (VAR-36338) from Title 19.10 parking requirements is required for relief from the loading space standards and a waiver is required to allow no landscaping in the additional 10-foot landscaped setback required by Section B.5.B of the Town Center Development Standards. Additionally, the restaurant is proposing to operate 24 hours a day, seven days a week, requiring a Review of Condition of the approved Site Development Plan Review (SDR-20496) for the overall site. These difficulties with the site design and location indicate that the use is not compatible with the existing adjacent land uses.

## FINDINGS

The following findings must be made for a Special Use Permit:

- 1. “The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The project site is adjacent to residential lots zoned R-CL (Single Family Compact-Lot) to the north and to a multi-use non-equestrian trail to the north and east. Given the intensity of the proposed use and the design of the site, it is not compatible with these existing adjacent uses.

**2. “The subject site is physically suitable for the type and intensity of land use proposed.”**

Although the size of the building originally proposed for the Pad ‘G’ site decreased 33 percent, the site as designed cannot accommodate a required loading space and may have potential circulation difficulties during peak business hours. The restaurant is proposing to operate 24 hours a day, seven days a week.

**3. “Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

Access to the development is provided by El Capitan Way, classified as an 80-foot wide Town Center Arterial by the Town Center Development Standards Manual. Durango Drive, a 100-foot wide Primary Arterial, provides an additional driveway access. These roadways will be adequate to accommodate the proposed Restaurant with Drive Through use.

**4. “Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

Approval of this Special Use Permit will not compromise the public health, safety, or welfare, as the proposed Restaurant with Drive Through will be subject to regular inspections.

**5. The use meets all of the applicable conditions per Title 19.04.**

There are no applicable conditions for a Restaurant with Drive Through use in Town Center. Requests for Special Use Permits for this use are considered on a case-by-case basis.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**NOTICES MAILED**

536 by City Clerk

**APPROVALS**

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**PROTESTS**

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